

REMARKS

Reconsideration and withdrawal of all grounds of rejection are respectfully requested in view of the above amendments and the following remarks. Claims 1, 4 and 6 have been amended. Claims 2, 3, 5 and 7 have been canceled. Applicants note that current claims have been drafted based upon the corresponding EP application, which is currently prepared to grant.

Claims 1-7 were rejected under 35 U.S.C. §103 in view of U.S. patent 6,242,113 to Kiser, U.S. patent 4,400,209 to Kudo et al. and JP-11-170084 to Kawaguchi et al.

The Office Action indicates that Kiser does not teach the presence of vanadium, nitrogen, calcium, magnesium, rare earth elements or oxygen, but that Kudo and Kawaguchi disclose these elements. One of ordinary skill would not have found it obvious to so radically alter the composition of Kiser and to pick and choose from various elements of the alloys of three references as described in the Office Action absent impermissible hindsight reconstruction of the claimed invention using Applicants' own specification as a roadmap against them.

A specific advantage of the claimed filler material is caused by the interaction of the elements included in the filler material, welding rod and weld metal. In other words, the specific advantage of the filler material cannot be caused by an accumulation of effect which may be individually caused by each of the elements included in the filler material. Therefore one of ordinary skill in the art would not think to combine the elements of Kudo and Kawaguchi into the filler material disclosed by Kiser, to produce a filler material similar to the filler material of the present invention.

In addition, the content of Nb in Kiser (0.60 to 0.95 wt%) does not overlap that of the present invention (0.5wt% or less).

Further, the filler material shown in Kiser includes the presence of Cu, W, Mo and Co, which are not included in the present invention. Kudo also features amounts of Cu, W, Mo, Co and Y while Kawaguchi features amounts of Cu, W and Mo. Therefore, a filler material resulting from the combination of Kiser, Kudo and Kawaguchi, would contain amounts of Cu, W, Mo and Co, with a different content of Nb, which is different than the claimed filler material, welding rod and weld metal.

It is respectfully submitted that the above amendments, taken in conjunction with the foregoing remarks, place all pending claims in condition for allowance. Accordingly, an early Notice of Allowance for this application is respectfully requested.

Appl. No. 10/597,263
Reply to Office action dated March 17, 2009

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. NISA1-39951.

Respectfully submitted,

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